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3
4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 * * *

7 ALDEN A. THOMAS, SR., dba P.A.J.
8 TRUST EXECUTOR OFFICE,

9 Plaintiff,

10 v.

11 SUNSHINE CARE HOME, et al.,

12 Defendants.

Case No. 2:16-cv-02601-JCM-PAL

**REPORT OF FINDINGS AND
RECOMMENDATION**

(IFP App. – ECF No. 1)

13 This matter is before the court on Plaintiff Alden A. Thomas, Sr.’s Application to Proceed
14 *In Forma Pauperis* (ECF No. 1) pursuant to 28 U.S.C. §§ 1915 and 1915A and LSR 1-1 of the
15 Local Rules of Practice. This proceeding is referred to the undersigned pursuant to 28 U.S.C.
16 § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

17 Mr. Thomas is a prisoner proceeding in this action *pro se*, which means that he is not
18 represented by an attorney. *See* LSR 2-1. He is an inmate in the custody of the California
19 Department of Corrections at the Centinela State Prison. He has requested authority to proceed *in*
20 *forma pauperis* (“IFP”), meaning without prepaying the filing fees, and submitted a proposed
21 motion to register a judgment from another district. Pursuant to 28 U.S.C. § 1914(a) and the
22 Judicial Conference Schedule of Fees, a filing fee and administrative fee totaling \$400 is required
23 to commence a civil action in a federal district court. The court may authorize a person to
24 commence an action without prepaying the filing fee if the person files an IFP application
25 including an affidavit stating that he or she is unable to pay the fee upfront. *See* 28 U.S.C.
26 § 1915(a)(1); LSR 1-1. However, the court must apply “even-handed care” to ensure that “federal
27 funds are not squandered to underwrite, at public expense, either frivolous claims” or the colorable
28 claims of a plaintiff “who is financially able, in whole or in material part, to pull his own oar.”

1 *Temple v. Ellerthorpe*, 586 F. Supp. 848, 850 (D.R.I. 1984) (collecting cases).

2 The court must conduct a preliminary screening in any case in which a prisoner seeks IFP
3 status. 28 U.S.C. § 1915(e); *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc)
4 (§ 1915(e) applies to “all in forma pauperis complaints”). In its review, a court must identify any
5 cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon
6 which relief may be granted or seek monetary relief from a defendant who is immune from such
7 relief. *Id.*; 42 U.S.C. § 1997e (Prison Litigation Reform Act of 1995 (“PLRA”)). Section 1915(d)
8 gives the court the power to dismiss “claims whose factual contentions are clearly baseless,” such
9 as “claims describing fantastic or delusional scenarios.” *Neitzke v. Williams*, 490 U.S. 319, 327–
10 28 (1989); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 696 (2009) (Souter, J. dissenting) (noting that
11 courts are not bound to accept as true allegations that are “sufficiently fantastic to defy reality as
12 we know it”). A complaint may be dismissed as frivolous if it is premised on a non-existent legal
13 interest or delusional factual scenario. *Neitzke*, 490 U.S. at 327–28. Moreover, “a finding of
14 factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the
15 wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992).

16 A “district court may deny leave to proceed in forma pauperis at the outset if it appears
17 from the face of the proposed complaint that the action is frivolous or without merit.” *Minetti v.*
18 *Port of Seattle*, 152 F.3d 1113, 1115 (9th Cir. 1998); *see also Denton*, 504 U.S. at 31 (recognizing
19 Congress’ concern that “a litigant whose filing fees and court costs are assumed by the public,
20 unlike a paying litigant, lacks an economic incentive to refrain from filing frivolous, malicious, or
21 repetitive lawsuits”). When a court dismisses a complaint upon the initial screening, a plaintiff
22 should be given leave to amend the complaint with directions as to curing its deficiencies, unless
23 it is clear from the face of the complaint that the deficiencies could not be cured by amendment.
24 *Lopez*, 203 F.3d at 1127–29; *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).
25 Allegations in a *pro se* complaint are held to less stringent standards than formal pleading drafted
26 by lawyers. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007); *Hebbe v. Pliler*, 627 F.3d 338, 342 n.7
27 (9th Cir. 2010).

28 Having reviewed Mr. Thomas’ filings, the court will recommend denial of his IFP

1 application and dismissal of this action as frivolous. Thomas' initial filing includes a motion to
2 register a judgment from "another district" and an affidavit in support of the motion. *See* ECF
3 No. 1-1. He signed a "commercial oath and certification" under the penalty of perjury of the
4 "Private International Laws of the unincorporated United States [sic] of America." *Id.* at 11. He
5 also attaches docket sheet, administrative default judgment, certification of judgment, and abstract
6 of judgment purportedly issued by the "Adjudicator Court" in another district, which is not
7 identified anywhere in the documents. The other district is not identified because the "Adjudicator
8 Court" does not exist.

9 Pursuant to the Federal Rules of Evidence, the court may take judicial notice of any fact
10 "not subject to reasonable dispute in that it is either: (1) generally known within the territorial
11 jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources
12 whose accuracy cannot reasonably be questioned." F.R.E. 201(b); *see also Daniels-Hall v. Nat'l*
13 *Educ. Ass'n*, 629 F.3d 992, 998–99 (9th Cir. 2010) (finding it appropriate for courts to take judicial
14 notice of information made publically available on government websites).

15 The court takes judicial notice that a federal "Adjudicator Court" does not exist. *See* United
16 States Courts: Court Role and Structure, [http://www.uscourts.gov/about-federal-courts/court-role-](http://www.uscourts.gov/about-federal-courts/court-role-and-structure)
17 [and-structure](http://www.uscourts.gov/about-federal-courts/court-role-and-structure) (last visited Aug. 10, 2017) (the federal judiciary consists of the United States
18 Supreme Court, 13 courts of appeal, 94 district courts; bankruptcy courts and appellate panels, and
19 numerous specialty courts, including the Court of International Trade, Court of Federal Claims,
20 Tax Court, Court of Appeals for Veterans Claims, and Court of Appeals for the Armed Forces).
21 Because it is clear from the face of the motion that the "Adjudicator Court" is a fictitious entity,
22 the court finds that Mr. Thomas is not entitled to an opportunity to amend his request for relief.
23 Thomas' motion so fantastic and delusional that amendment would be futile. *See Lopez*, 203 F.3d
24 at 1126, 1131 (citing *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)). The court will
25 therefore recommend that this action be dismissed.¹

26
27 ¹ Notably, the court has dismissed two other cases Thomas filed seeking to register judgments purportedly
28 entered by the non-existent "adjudicator court." *See Thomas v. Kang & Assoc.*, No. 16-cv-2573-JCM-NJK,
Order (ECF No. 14); *Thomas v. Atlas Group L.C.*, No. 16-cv-2729-JCM-PAL, Order (ECF No. 4).

1 Based on the foregoing,

2 **IT IS RECOMMENDED:**

3 1. Plaintiff Alden A. Thomas, Sr.'s Application to Proceed *In Forma Pauperis* (ECF
4 No. 1) be **DENIED** and this action be **DISMISSED**.

5 2. The Clerk of the Court be instructed to close this case and enter judgment accordingly.

6 Dated this 10th day of August, 2017.

7 
8 PEGGY A. LEEN
9 UNITED STATES MAGISTRATE JUDGE

10 **NOTICE**

11 This Report of Findings and Recommendation is submitted to the assigned district judge
12 pursuant to 28 U.S.C. § 636(b)(1) and is not immediately appealable to the Court of Appeals for
13 the Ninth Circuit. Any notice of appeal to the Ninth Circuit should not be filed until entry of the
14 district court's judgment. *See* Fed. R. App. P. 4(a)(1). Pursuant to LR IB 3-2(a) of the Local Rules
15 of Practice, any party wishing to object to a magistrate judge's findings and recommendations of
16 shall file and serve *specific written objections*, together with points and authorities in support of
17 those objections, within 14 days of the date of service. *See also* 28 U.S.C. § 636(b)(1); Fed. R.
18 Civ. P. 6, 72. The document should be captioned "Objections to Magistrate Judge's Report of
19 Findings and Recommendation," and it is subject to the page limitations found in LR 7-3(b). The
20 parties are advised that failure to file objections within the specified time may result in the district
21 court's acceptance of this Report of Findings and Recommendation without further review. *United*
22 *States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). In addition, failure to file timely
23 objections to any factual determinations by a magistrate judge may be considered a waiver of a
24 party's right to appellate review of the findings of fact in an order or judgment entered pursuant to
25 the recommendation. *See Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th Cir. 1991); Fed. R. Civ. P.
26 72.